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09/348,774	07/07/1999	WILLIAM M. KLEINFELTER	3207/22	5725

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EXAMINER
MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
2166	8

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/348,774	Applicant(s) KLEINFELTER, WILLIAM M.	
	Examiner Robert W. Morgan	Art Unit 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-49 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-49 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

1. In the amendment filed 9/19/01 and 11/26/01 in papers number 5 and 7, the following has occurred: Claims 20-49 has been added and second claim 26 has been canceled. Now claims 1-49 are presentation for examination.

2. The rejections under 35 U.S.C. § 112, second paragraph have been withdrawn by the examiner based on the clarification made by the applicant with regards to the claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-49 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 5,950,630 to Portwood et al.

As per claim 1, Portwood et al. teaches a computer implemented method for processing prescription data representing a plurality of prescription drugs, said method comprising the steps of:

--the claimed arranging received prescription data that corresponds to a first prescription drug into a new record of a predetermined format containing an identifier for identifying said patient and further containing a first name of said first prescription drug is met by the prescription information being entered and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54);

--the claimed accessing a plurality of pre-stored records of said predetermined format, each pre-stored record containing information on a plurality of prescription drugs previously prescribed for respective patients is met by the CPU (1, Fig. 4) that allows the patient prescription data or records to be quickly access as well as making and entering any changes to the already existing prescription (see: column 16, lines 47-57);

--the claimed comparing said identifier in said new record with each identifier located in the pre-stored records to find a matching pre-stored record associated with said patient is met by the comparing existing and current patient's prescription data which includes the duration and dosage range of a administered drug as transmitted by the reporting unit (see: column 3, lines 5-10);

--the claimed comparing said first name of said first prescription drug with a second name of a second prescription drug located in the found matching pre-stored record is met by comparing existing and current patient's prescription data which includes but not limited to patient name, drug name, unit and strength (see column 6, lines 5-10 and column 6, lines 50-54); and

--the claimed identifying said first prescription drug as a new therapy start for said patient if said first name is not substantially identical to said second name is met by the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine the drug used by a patient and to determine a new recommend or continuing medical regimen (see: column 7, lines 56-67).

As per claim 2, Portwood et al. teaches determining whether types of said first and second names are brand or generic if said first name is not substantially identical to said second name, converting one of said first and second names to the type of the remaining name if the types are different, and ascertaining an equivalency between said first and second names based on the converted name is met by comparing the pharmaceutical information (existing prescription) and the patient prescription data(current prescription) which includes the use of the National Drug Code (NDC) and the Generic Product Identifier (GPI) to select the correct drug name needed to full the prescription (see: column 6, lines 50-61 and column 7, lines 56-67).

As per claim 3, Portwood et al. teaches collecting the pre-stored records over a predetermined time interval is met by the printing of several reports such as a prescription calendar and prescribed medical regimen that need to be collected and transmitted to the patient over the course of the treatment (see: column 16, lines 11-23).

As per claim 4, Portwood et al. teaches a predetermined format further contains a date of dispensing said prescription drug to said patient and a dosage of said prescription drug (see: column 6, lines 50-54).

As per claim 5, Portwood et al. teaches calculating a last day when said patient has taken said second prescription based on said date of dispensing and on said dosage if said first and last names are substantially identical, determining a length of time elapsed between said last day of taking said second prescription drug and a first day of dispensing said first prescription drug, and identifying said first prescription drug as newly prescribed for said patient if said length of time exceeds a predetermined time interval is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63).

As per claim 6, Portwood et al. teaches obtaining each pre-stored record for said patient, accessing a list of illnesses to determine each illness treatable by each respective prescription drug contained in said each pre-stored record, accessing said list of illnesses to determine an illness treatable by said first prescription drug identified as newly prescribed, and ascertaining whether said first prescription drug is a replacement for another prescription drug previously taken by said patient is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 7, Portwood et al. teaches calculating a last day when said patient has taken said another prescription drug based on said date of dispensing and on said dosage, determining a length of time elapsed between said last day of taking said another prescription drug and a first day of dispensing said first prescription drug, and identifying said first prescription drug as said replacement if said length of time does not exceed a predetermined time interval is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67).

As per claim 8, Portwood et al. teaches said predetermined format further contains a prescriber name, a prescriber address, and a patient zip code (see: column 8, lines 27-29 and 38-39).

As per claim 9, Portwood et al. teaches selecting every prescription drug identified as newly prescribed for each patient over a predetermined time interval, and sorting the selected

prescription drugs according to at least one criterion selected from the following: a prescriber's name, a prescriber's address, a patient's zip code, a prescriber's specialty, a pharmaceutical sales territory, national-based reporting, ICD9 code is met by the patient prescription data which includes a prescriber's name (see: column 8, lines 27-29).

As per claims 10-18, they are rejected for the same the reasons set forth in claims 1-9.

As per claim 19, Portwood et al. teaches a computer-readable storage medium for storing a program code for, when executed, causing a computer to perform a method for processing prescription data representing a plurality of prescription drugs, said method comprising:

--the claimed arranging received prescription data that corresponds to a first prescription drug into a new record of a predetermined format containing an identifier for identifying said patient and further containing a first name of said first prescription drug is met by the prescription information being enter and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54 and column 7, lines 40-51);

--the claimed accessing a plurality of pre-stored records of said predetermined format, each pre-stored record containing information on a plurality of prescription drugs previously prescribed for respective patients is met by the CPU (1, Fig. 4) that allows the patient prescription data or records to be quickly access as well as making and entering any changes to the already existing prescription (see: column 16, lines 47-57 and column 7, lines 40-51);

--the claimed comparing said identifier in said new record with each identifier located in the pre-stored records to find a matching pre-stored record associated with said patient is met by the comparing existing and current patient's prescription data which includes the duration and dosage range of a administered drug as transmitted by the reporting unit (see: column 3, lines 5-10 and column 7, lines 40-51);

--the claimed comparing said first name of said first prescription drug with a second name of a second prescription drug located in the found matching pre-stored record is met by comparing existing and current patient's prescription data which includes but not limited to patient name, drug name, unit and strength (see column 6, lines 5-10 and column 6, lines 50-54 and column 7, lines 40-51); and

--the claimed identifying said first prescription drug as a new therapy start for said patient if said first name is not substantially identical to said second name is met by the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine the drug used by a patient and to determine a new recommend or continuing medical regimen (see: column 7, lines 56-67 and column 7, lines 40-51).

As per claim 20, Portwood et al. teaches a computer implemented method for processing prescription data using a plurality of pre-stored prescription data records, each of which comprises a patient identifier identifying a patient and a drug identifier identifying a drug being prescribed to the identified patient of the respective record, the method comprising:

--the claimed receiving a first prescription data record comprising a patient identifier identifying a first patient and a drug identifier identifying a drug being prescribed to the first patient drug is met by the prescription information being entered and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54);

--the claimed comparing the patient identifier of the first prescription data record to the patient identifier of each of the plurality of pre-stored prescription data records to find a pre-stored prescription data record having a patient identifier matching the patient identifier of the first prescription data record (see: column 3, lines 5-10);

--the claimed determining whether the drug identifier of the matching pre-stored prescription data record is related to the drug identifier of the first prescription data record is met by comparing existing and current patient's prescription data which includes but not limited to patient name, drug name, unit and strength to determine the relationship between the stored data (existing) and the prescription data (current) (see column 6, lines 5-10 and column 6, lines 50-54);

--the claimed identifying the drug being prescribed to the first patient as a new therapy start for the first patient if the drug identifier of the first prescription data record is not related to the drug identifier of the matching pre-stored prescription data record is met by the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine the drug used by a patient and to determine a new recommend or continuing medical regimen (see: column 7, lines 56-67).

As per claim 21, Portwood et al. teaches the step of determining comprises identifying the drug identifier of the matching pre-stored prescription data record as being related to the drug identifier of the first prescription data record if the drug identifier of the matching pre-stored prescription data record matches the drug identifier of the first prescription data record. This feature is met by the comparing and tests of pharmaceutical data and patient data for underdosing and overdosing which indicates a relationship between the pre-stored prescription data record and the first prescription data (column 6, lines 50-67).

As per claim 22, Portwood et al. teaches a drug identifier is of one of two types, one type of drug identifier being an identifier to a brand name drug and the other type of drug identifier being an identifier to a generic drug corresponding to a brand name drug, and where the step of determining comprises:

--the claimed prior to the step of identifying, if the drug identifier of the matching pre-stored prescription data record and the drug identifier of the first prescription data record are not of the same type, converting either the drug identifier of the matching pre-stored prescription data record or the drug identifier of the first prescription data record to the other type of drug identifier is met by comparing the pharmaceutical information (existing prescription) and the patient prescription data (current prescription) which includes the use of the National Drug Code (NDC) and the Generic Product Identifier (GPI) to select the correct drug name needed to full the prescription (see: column 6, lines 50-61 and column 7, lines 56-67).

As per claim 23, Portwood et al. teaches a database provides a correspondence between brand name drugs and their corresponding generic drugs, and where the step of converting comprises:

--the claimed drug identifier being conveyed is of the type that identifies a brand name drug, searching the database to find the generic drug corresponding to the brand name drug identified by the drug identifier being converted and modifying the drug identifier being converted to identify the found generic drug is met by the pharmaceutical database which uses the National Drug Code (NDC) and the Generic Product Identifier (GPI) to select the correct drug name needed to full the prescription indicating that brand name drugs are compared with generic (see: column 6, lines 50-61 and column 7, lines 56-67); and

--the claimed drug identifier being converted is of the type that identifies a generic drug, searching the database to find the brand name drug corresponding to the generic drug identified by the drug identifier being converted and modifying the drug identifier being converted to identify the found brand name drug is met by the pharmaceutical database which uses the National Drug Code (NDC) and the Generic Product Identifier (GPI) to select the correct drug name needed to full the prescription indicating that brand name drugs are compared with generic (see: column 6, lines 50-61 and column 7, lines 56-67).

As per claim 24, Portwood et al. teaches the claimed plurality of pre-stored prescription data records are collected over a predetermined time interval. This limitation is met by the printing of several reports such as a prescription calendar and prescribed medical regimen that need to be collected and transmitted to the patient over the course of the treatment (see: column 16, lines 11-23).

As per claim 25, Portwood et al. teaches plurality of pre-stored prescription data records further comprises a dispensing date on which the drug being prescribed of the respective record was dispensed and a drug dosage describing the dosage prescribed for the drug being prescribed of the respective record, and where the first prescription data record further comprises a dispensing date on which the drug being prescribed of the first prescription data record was dispensed, and where the method further comprises:

--the claimed drug identifier of the matching pre-stored prescription data record is related to the drug identifier of the first prescription data record, calculating a last day the drug being prescribed of the matching pre-stored prescription data record was taken based on the dispensing date and drug dosage for the drug being prescribed of the matching pre-stored prescription data record is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63);

--the claimed determining a length of time between the last day calculated and the dispensing date of the drug being prescribed of the first prescribed data record is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63); and

--the claimed identifying the drug being prescribed to the first patient as a new therapy tat for the first patient if the length of time determined exceeds a predetermined time interval is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63).

As per claim 26, Portwood et al. teaches a computer implemented method for processing prescription data using a plurality of pre-stored prescription data records, each of which comprises a patient identifier identifying a patient and a drug identifier identifying a drug being prescribed to the identified patient of the respective record, the method comprising:

--the claimed receiving a first prescription data record comprising a patient identifier identifying a first patient and a drug identifier identifying a drug being prescribed to the first patient is met by the prescription information being entered and organized according to drug name, units, strength, prescription signature, refills, dosing mode and a date last administered to the patient (see: column 6, lines 50-54);

--the claimed comparing the patient identifier of the first prescription data record to the patient identifier of each of the plurality of pre-stored prescription data records to find all pre-stored prescription data records having a patient identifier matching the patient identifier of the first prescription data record(see: column 3, lines 5-10);

--the claimed identifying all the illnesses treatable by the drug being prescribed of the first prescription data record is met by the ability to access the patient prescription that includes a description of the patient's symptoms and drugs used to combat those symptoms (see: column 16, lines 41-43 and column 16, lines 54-58);

--the claimed for each matching pre-stored prescription data record, identifying all the illnesses treatable by the drug being prescribed of the respective pre-stored prescription data record is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58); and

--the claimed determining whether the drug being prescribed of the first prescription data record is a therapy switch based on the illnesses treatable by the drug being prescribed of the first

prescription and the illnesses treatable by any drug being prescribed of any of the matching pre-stored prescription data records is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 27, Portwood et al. teaches a database lists the illnesses treatable by drugs, and where the step of identifying all the illnesses treatable by a drug being prescribed comprises:

--the claimed given drug being prescribed, searching the database to find the given drug is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58); and

--the claimed identifying all the illnesses listed in the database as treatable by the found drug is met by the ability to access the patient prescription which includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 28, Portwood et al. teaches each of the plurality of pre-stored prescription data records further comprises a dispensing date on which the drug being prescribed of the respective record was dispensed and a drug dosage describing the dosage prescribed for the drug being prescribed of the respective record, and where the first prescription data record further comprises a dispensing date on which the drug being prescribed of the first prescription data record was dispensed, and where the step of determining comprises:

--the claimed identifying one of the plurality of pre-stored prescription data records where the drug being prescribed of the identified record treats an illness that the drug being prescribed of the first prescription data record also treats is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63);

--the claimed calculating a last day the drug being prescribed of the identified record was taken based on the dispensing date and drug dosage for the drug being prescribed of the identified record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67);

--the claimed determining a length of time between the last day calculated and the dispensing date of the drug being prescribed of the first prescribed data record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67); and

--the claimed identifying the drug being prescribed to the first patient as a therapy switch for the first patient if the length of time determined does not exceed a predetermined time interval is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67).

As per claims 29-36 and 39-46, they are rejected for the same reason set forth in claims 20-27.

As per claim 37, Portwood et al. teaches means for determining identifies the drug being prescribed of the first prescription data record as a therapy switch if any illness treatable by the drug being prescribed of the first prescription data record matches any illness treatable by any drug being prescribed of any of the matching pre-stored prescription data records. This limitation is met by the ability to access the patient prescription that includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 38, Portwood et al. teaches each of the plurality of pre-stored prescription data records further comprises a dispensing date on which the drug being prescribed of the respective record was dispensed and a drug dosage describing the dosage prescribed for the drug being prescribed of the respective record, and where the first prescription data record further comprises a dispensing date on which the drug being prescribed of the first prescription data record was dispensed, and where the means for determining comprises:

--the claimed means for identifying one of the plurality of pre-stored prescription data records where the drug being prescribed of the identified record treats an illness that the drug being prescribed of the first prescription data record also treats is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63);

--the claimed means for calculating a last day the drug being prescribed of the identified record was taken based on the dispensing date and drug dosage for the drug being prescribed of the identified record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67);

--the claimed means for determining a length of time between the last day calculated and the dispensing date of the drug being prescribed of the first prescribed data record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67); and

--the claimed means for identifying the drug being prescribed to the first patient as a therapy switch for the first patient if the length of time determined does not exceed a predetermined time interval is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67).

As per claimed 47, Portwood et al. teaches the step of determining comprises identifying the drug being prescribed of the first prescription data record as a therapy switch if any illness treatable by the drug being prescribed of the first prescription data record matches any illness treatable by any drug being prescribed of any of the matching pre-stored prescription data records. This limitation is met by the ability to access the patient prescription that includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

As per claim 48, Portwood et al. teaches each of the plurality of pre-stored prescription data records further comprises a dispensing date on which the drug being prescribed of the respective record was dispensed and a drug dosage describing the dosage prescribed for the drug being prescribed of the respective record, and where the first prescription data record further comprises a dispensing date on which the drug being prescribed of the first prescription data record was dispensed, and where the step of determining comprises:

--the claimed identifying one of the plurality of pre-stored prescription data records where the drug being prescribed of the identified record treats an illness that the drug being prescribed of the first prescription data record also treats is met by the patient prescription data which includes the length of therapy, drug name, date and time of dosage and patient history all used to determine and calculate the patient prescribed regimen (see: column 6, lines 50-67 and column 11, lines 56-63);

--the claimed calculating a last day the drug being prescribed of the identified record was taken based on the dispensing date and drug dosage for the drug being prescribed of the identified record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67);

--the claimed determining a length of time between the last day calculated and the dispensing date of the drug being prescribed of the first prescribed data record is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67); and

--the claimed identifying the drug being prescribed to the first patient as a therapy switch for the first patient if the length of time determined does not exceed a predetermined time interval is met by calculating the DoseUnit and IndividualDose of the patient to determine the dosage, duration and length of therapy between prescriptions (see: column 11, lines 56-66 and column 6, lines 50- 67).

As per claimed 49, Portwood teaches the step of determining comprises identifying the drug being prescribed of the first prescription data record as a therapy switch if any illness treatable by the drug being prescribed of the first prescription data record matches any illness

treatable by any drug being prescribed of any of the matching pre-stored prescription data records. This limitation is met by the ability to access the patient prescription that includes a description of the patient's symptoms and drugs used to combat those symptoms as well as all the stored patient prescription data from any previous treatments (see: column 16, lines 41-43 and column 16, lines 54-58).

Response to Arguments

4. Applicant's arguments filed 9/19/01 and 11/26/01 have been fully considered but they are not persuasive.

In the remarks, Applicants argue in substance that Portwood et al. does not describe or suggest the identification of a prescription drug as a new therapy start by a comparing drug names.

Applicant argues that Portwood et al. does not describe or suggest the identification of a prescription drug as a new therapy. This argument is not persuasive because the reference of the Portwood et al. teaches the use of the Generic Product Identifier (GPI) and National Drug Code (NDC) both used to determine a specific drug being used by a patient as well as determining a new recommended regimen (therapy) or continuing regimen (see: column 7, lines 40-51 and 56-67).

Further, Applicant apparently ignores the clear and unmistakable teachings of Portwood et al. with respect to comparing stored pharmaceutical information to patient/patient prescription data to ascertain the range of every new prescription or drug regimen (column 6, lines 55-67, column 14, lines 39-49; and column 15, lines 52-60).

As such, it is readily apparent that the designation of any new drug regimen in the Portwood et al. system would be based on the determination of specific drugs coded by their trade names (column 1. lines 49-54).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

rwm
February 8, 2002

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100